



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
REGULAR SESSION - AUGUST 22, 2005**

AGENDA

7:30 p.m. – Roll Call

PRELIMINARY MEETINGS:

1. **RUTH GITA NADAS (05-47)** Request for 14,660 sq. ft. Minimum Lot Area for proposed single-family home on Bull Road in an R-1 Zone **(52-1-13.34)**
2. **CARL SCHILLER (05-48)** Request for variance for proposed shed to be located between the house and the street at 6 Horseshoe Bend in an R-4 Zone **(46-2-21)**
3. **JEFFREY EHLERS (05-49)** Request for 27 ft. Rear Yard Setback for proposed House Deck, Pool Deck and Pool at 342 Butternut Drive in a CL-1 Zone **(80-6-1)**
4. **JOSEPH BONURA (05-50)** Request for determination of the exact location of any District Boundary shown on the zoning map, or Use Variance to locate a hotel in an R-4 Zone at 2975 NYS RT. 9W in an R-4 Zone **(37-1-31.1)**
5. **DAVID GARCIA (05-51)** Request for 8 ft. Rear Yard Setback for proposed 8' X 12' shed and; for proposed shed to project closer to the road than the house on a corner lot at 2 Harth Drive in an R-4 Zone **(43-1-1)**
6. **JOHN MOWBRAY (05-52)** Request for 24 ft. Side Yard Setback for existing deck at 318 Beattie Road in an R-1 Zone **(55-1-117)**
7. **PATRIOT PLAZA ASSOCIATES LLC. (05-53)** Request for 12 ft. Maximum Building Height for proposed Cupola on commercial retail center at 337 Union Avenue in a PUD Zone **(4-2-21.12)**
8. **QUICK CHEK FOOD STORES (05-54)** Request for:

INTERPRETATION – of Code Section 300-26(A) relative to 1000 ft. spacing between “gasoline facilities/stations”. As per bulk tables, this application is for “Convenience store with gasoline sales” (use B-7)

FREE STANDING SIGN - Request for 27.9 sf for sign.

WALL SIGN – Request for 45 sf for wall sign.

All at corner of Rt. 32 & Union Avenue in an NC Zone **(12-1-49)**

PUBLIC HEARINGS:

9. **M & Y BUILDERS (05-37)** Request for 21,847 sq. ft. Minimum Lot Area for proposed single family home at 8 Schwartz Lane in an R-1 Zone **(52-1-8.1)**
10. **ARCHIBALD AUSTIN (05-42)** Request for 6 ft. fence to project closer to the street than the principal building on a corner lot at 2 Karen Ct. in an R-1 Zone **(51-2-18)**

PUBLIC HEARING CONTINUATION (from July 25, 2005)

11. **AMERADA HESS CORP. (05-36)** Request for:
 - 7 ft. Rear Yard Setback and;
 - 30 square foot variance for façade sign and;
 - 4 parking spaces and;All at corner of Union Avenue & Windsor Highway in an NC Zone **(12-2-1)**

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

AUGUST 22, 2005

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
LEN MCDONALD
MICHAEL REIS
KIMBERLY GANN

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

JENNIFER GALLAGHER
ZONING BOARD SECRETARY

ABSENT: STEPHEN RIVERA
HOWARD BROWN
KATHLEEN LOCEY

REGULAR_MEETING

MR. KANE: I'd like to call to order the August 22,
2005 meeting of the Town of New Windsor Zoning Board of
Appeals.

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PRELIMINARY_MEETINGS: _____

RUTH_GITA_NADAS_(05-47) _____

MR. KANE: Requet for 14,660 square foot minimum lot area for proposed single-family home on Bull Road.

Ms. Ruth Gita Nadas appeared before the board for this proposal.

MR. KANE: What we do in New Windsor is we have a preliminary meeting so we can get a general idea of what you want to do and that you have everything that you need for a public hearing plus by law. All the decisions we make have to be at a public hearing. I would just request that you speak loud enough so the young lady over there can hear you, tell us what you want to do.

MR. NADAS: Well, this is, this was a previously subdivided lot and was actually an approved until the zoning was changed last year and I was rather slow about reacting to the situation and it's still subdivided as what is it 1., don't know 1.5 something acres, about 1 1/2 acres and I'm just, I'm requesting a variance to make it into an approved lot.

MR. KANE: You need 80,,000 you have 65.3.

MS. NADAS: Yes.

MR. KANE: Will you be cutting down any trees or substantial vegetation in the building of the home?

MR. NADAS: Probably not, no, looks like most of the buildings in the front part of the lot that's closer to the road, that's already cleared.

MR. KANE: Will you be having Town water and sewer or septic and well?

MR. NADAS: Yeah.

MR. KANE: Creating any water hazards or runoffs with the building of the home in that area?

MR. NADAS: No.

MR. KANE: Is there any existing easements that run through the property?

MR. NADAS: No.

MR. KANE: What size home are you building approximately?

MS. NADA: I don't know, I don't know, 2,500 square feet maybe.

MR. KANE: Mike, so the only reason she's here is because of the zoning change?

MR. BABCOCK: Yes, she hasn't proposed a house at this time, if she does, she'll have to meet the zoning as far as setbacks.

MR. NADAS: So I'd have to come for another variance?

MR. BABCOCK: No, we're going to tell you that you have to meet the zoning of what the lot is today and typically you've got plenty of room, the lots 125 feet wide.

MR. KANE: Just depending on the placement of the home.

MR. BABCOCK: That's correct.

MR. NADAS: There was one built next door similar lot, there's no problem.

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MR. KANE: Does the board have any further questions?
Can I have a motion to set her up?

MR. KRIEGER: I have a couple, she may not be able to
answer now but should be by the public hearing, how
many lots was the subdivision originally?

MR. NADAS: Originally I don't know, I can find out.

MR. KRIEGER: And when was the subdivision granted?

MR. KANE: Don't need those right here but have them
for the public hearing.

MR. KRIEGER: I'm asking now so when I ask again at the
public hearing.

MR. KANE: You can provide those answers.

MR. NADAS: That's what this map is 1986 it shows.

MR. KANE: How long ago did you purchase the property?

MR. NADAS: 1996 or 7.

MR. KANE: Try to get those answers, we'll need those
answers for the public hearing. Okay?

MR. NADAS: Yes.

MR. KRIEGER: Then all the, all these lots all front on
the same road is that it?

MR. NADAS: Yes.

MR. KRIEGER: Okay, I will want to how many lots and
how they have been developed.

MR. NADAS: The original?

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MR. KANE: The other parts of the subdivision.

MR. NADAS: There's similar kinds of homes, I can count them.

MR. KRIEGER: You bought the house?

MR. NADAS: Actually a gift.

MR. KRIEGER: You acquired it?

MS. NADAS: I didn't subdivide it, no, I didn't.

MR. KRIEGER: Okay.

MR. KANE: Okay, I'll accept a motion to set her up for a public hearing.

MR. MC DONALD: I make a motion that we grant Miss Nadas, set her up for a public hearing for request for 14,660 square feet minimum lot area for proposed single family home on Bull Road.

MS. GANN: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. REIS	AYE

MR. KANE: Just follow the directions on the sheet and we'll set it up for a public hearing.

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CARL_SCHILLER_(05-48) _____

Mr. Carl Schiller appeared before the board for this proposal.

MR. KANE: Request for variance for proposed shed to be located between the house and the street at 6 Horseshoe Bend. Tell us what you want to do, sir.

MR. SCHILLER: I just want to build a 10 x 8 foot shed on my property next to the house.

MR. KANE: You have, this is a service road over here or Spring Rock Road?

MR. SCHILLER: Spring Rock.

MR. KANE: So your home has three roads?

MR. SCHILLER: Horseshoe Bend winds around so that's the same road.

MR. KANE: So technically he's dealing with a couple of front yard here.

MR. BABCOCK: Two front yards, yes.

MR. KANE: Cutting down any trees, substantial vegetation in the building of the shed?

MR. SCHILLER: No.

MR. KANE: Creating any water hazards or runoffs?

MR. SCHILLER: No.

MR. KANE: Any easements in the area where the shed is going to be?

MR. SCHILLER: No.

MR. KANE: Is the shed similar in size and nature to other sheds that are in the neighborhood?

MR. SCHILLER: Yes.

MR. KANE: And is there any reason that you can't place the shed in an area that doesn't require a variance?

MR. SCHILLER: My back yard I think there's a ten foot from the, away from the property line and that's the problem, can't fit it in my back yard.

MR. KANE: So anyplace basically anyplace you put it on your property you're going to require some kind of a variance to put it?

MR. SCHILLER: Correct.

MR. REIS: For the record, Mr. Schiller, your proposed shed won't conflict with traffic sight?

MR. SCHILLER: What does that mean?

MR. REIS: Again, for the record, where you're placing the shed it will not conflict with the traffic or vision?

MR. SCHILLER: Oh no, no.

MS. GANN: Will you be running electric to the shed?

MR. SCHILLER: No.

MR. MC DONALD: On a slab or permanently installed?

MR. SCHILLER: No, it's going to be on paving blocks.

MR. KANE: Mike, look at the pictures here just from where this shed is going to be going out to Horseshoe

Bend Road just from this particular, last particular picture it looks like there won't be any traffic so I don't need another picture for that otherwise I would ask for it.

MR. REIS: Just for the record, thank you.

MR. KANE: Any further questions from the board?

MS. GANN: No.

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion we set up Mr. Carl Schiller for his requested variance for proposed shed to be located between the house and the street at 6 Horseshoe Bend.

MR. MC DONALD: Second it.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

MR. SCHILLER: Can I ask one question? If I decide to make it smaller, do I have to tell you now or--

MR. KANE: No.

MR. BABCOCK: No.

MR. KANE: Bigger yes, smaller no.

MR. SCHILLER: Okay.

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MR. KANE: Just follow the directions on that. Have a good evening.

JEFFREY_EHLERS_(05-49) _____

MR. KANE: Request for 27 ft. rear yard setback for proposed house deck, pool deck and pool at 342 Butternut Drive.

Mr. Jeffrey Ehlers appeared before the board for this proposal.

MR. KANE: Tell us what you want to do, sir.

MR. EHLERS: I'd like to replace the existing deck and add on to it so that it meets the code.

MR. MC DONALD: Looking at pictures you're going to bring it right up to the pool?

MR. EHLERS: It would drop down so it would be level with the pool and come out towards the pool, roughly the deck that's there now is 12 x 12, this would drop down and be 12 by approximately 15.

MR. KANE: How far is the pool from the property line now?

MR. EHLERS: Thirteen and a half, I believe.

MR. KANE: So if you weren't attaching the deck that's attached to the house that's part of the deck then you would be legal on your pool right, Mike?

MR. BABCOCK: Excuse me?

MR. KANE: It's because the deck is attached to the house we're going for the 40 foot offset?

MR. BABCOCK: That's correct.

MR. KANE: Other than that the pool is legal without the deck being attached to it?

MR. BABCOCK: That's correct.

MR. KANE: And you consider it a safety issue to build the deck?

MR. EHLERS: Do I consider it a safety issue, yes.

MR. KANE: Creating any water hazards or runoffs with the building of the deck?

MR. EHLERS: No.

MR. KANE: Of either deck let me put it that way, cutting down any trees substantial vegetation?

MR. EHLERS: None.

MR. KANE: The deck being similar in size and nature to other decks that are in your neighborhood?

MR. EHLERS: Yes.

MR. KANE: Any easements running through the area where the decks or the pool is?

MR. EHLERS: No.

MR. KANE: And you understand that a public hearing, if this is approved, you have still have to meet all the requirements from the building department?

MR. EHLERS: Yes.

MR. KANE: Any other questions? I'll accept a motion.

MS. GANN: I will offer a motion that we set up Jeffrey Ehlers for a public hearing for his request for 27 foot rear yard setback for proposed house deck, pool deck and pool at 342 Butternut Drive.

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MR. MC DONALD: Second it.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

JOSEPH_BONURA_(05-50)

MR. KANE: Request for determination of the exact location of any district boundary shown on the zoning map or use variance to locate a hotel in an R-4 zone.

Mr. Joseph Bonura appeared before the board for this proposal.

MR. KANE: Yes?

MR. BONURA: Good evening, the reason we're here tonight, I own Anthony's Pier 9 and we want to build a hotel next to Pier 9 and we've own the property for several years and we had it surveyed to determine where we're going to put the hotel and much to our surprise when the survey came back we found that the R-4 line, the residential line somehow was moved and believe it or not right now it goes right through Pier 9 which is a little impossible because we came to the planning board about 15 times, I had a certified survey from Mr. Grevas in 10/26/89 showing where the residential line is. But let me explain to you, let me show you that line first of all, and I have been to the Town Hall hunting down a map trying to find out what happened and I will give you the best explanation that I can give. But anyway here in '89 he certified that the residential line was right here because I was given permission at this planning board meeting to put my vehicle storage buildings 30 percent into the residential line, this is the line and it's certified. Now, Chazen just doing the survey a couple months ago shows the residential line here according to the current map going right through my building and here instead of back here somehow this line got moved. So now let me explain to you where I think the mistake was. In 1966 we have a map here, map number one.

MR. KANE: That would be the first year of zoning, right?

MR. BABCOCK: That's correct.

MR. BONURA: The zoning it was 500 feet it shows back from 9W which puts it here at the top of the hill, okay, that's 1966. So we have it there, then in August of '93, there was a revised zoning along 9W, let me get this map here, here's a map where it says revised, the NC zone along 9W and that was supposed to be 200 feet from 9W but not in this section, it was up towards the corner towards the light by Vails Gate from what I understand. But when they did the map, they went all the way down to here, all the way, they did all of 9W because as I said in '89, I have a certified survey from Grevas showing where that line is. In fact, I can't find anything that brings the line down to here, as far as everything shows in the books, it's back here, the line is 500 feet back, but we don't want it back there, we just want it where it was right here and that goes here because here let me give you an aerial, we happen to have an aerial photograph taken for the survey and here we are, here's the shed right here, okay, here's the top of the hill, we have been using this for a parking lot, I'm sure people park here, we have used it for 15 years as commercial and it just happens the day that we took this photograph we used it. This is the piece in question and now the line says right now my building is in violation, half of it is in an residential zone so this line somehow got moved by the state.

MR. BONURA, JR.: I'm Joe Bonura junior and this line coincidentally lines up with the school district line.

MR. BONURA: What is it, the Cornwall line, I think?

MR. BABCOCK: Cornwall-Newburgh line.

MR. BONURA: Show you how I think they took the Cornwall line and made the residential there.

MR. KANE: So Mike, do I have the power to draw lines wherever the hell I want?

MR. BABCOCK: Yes. Mr. Chairman exactly what Mr. Bonura said we did a lot of research and that's exactly what happened, there's been no request by the Town or by Mr. Bonura to move this line. We went back through every map out since 1989 so when the zoning was changed along 9W in other areas to be 200 feet back when they made up the new map they just did it the entire 9W at 200 feet.

MR. BONURA: We would have never known if we weren't going to do the hotel, we never would have known.

MR. KANE: To cure this, we would then need an interpretation from the zoning board stating that for this particular section, block and lot?

MR. KRIEGER: Let me understand this, it isn't the Pier 9 property that you're looking at?

MR. BONURA: Oh, yes.

MR. KANE: It goes right through his building.

MR. KRIEGER: Okay.

MR. KANE: So it's actually both these properties.

MR. MC DONALD: The interpretation is to bring this back to the original line.

MR. KRIEGER: Which is the piece of property you intend to build the hotel on.

MR. BONURA: Right here.

MR. KRIEGER: And the original line was coincident with

the rear line, is that it?

MR. BONURA: Right, this was the line.

MR. KRIEGER: Now they've moved it up.

MR. KANE: We don't know how it got moved up.

MR. KRIEGER: It shows it moved up.

MR. KANE: Right.

MR. KRIEGER: So but my question is with the line moved up is this piece of property is more than half of it in the residential zone now?

MR. BONURA: No, just this portion.

MR. KANE: Just this little corner right here.

MR. KRIEGER: So most of it is in the commercial zone.

MR. BONURA: Yes.

MR. KRIEGER: So what if the application is for this piece of property, the hotel, if the application is here then it requires an interpretation, the first interpretation is whether this parcel, whether he's allowed to build in accordance, what's the rest of this zone?

MR. BONURA: NC.

MR. KRIEGER: He's allowed to build in conjunction with the NC, the NC criteria give you permission to build a hotel?

MR. BONURA: Yes.

MR. KRIEGER: So if there's a zoning board

interpretation that this parcel you're allowed to use NC use on the parcel, that's what you're looking for. Now, with respect to the Pier 9, if no one has filed an objection, then there's nothing for the Zoning Board of Appeals to hear because it's and appeals board, somebody has to raise an objection first and I haven't, I heard concerns on your part but I haven't heard an objection, nobody has come in and raised an objection.

MR. BABCOCK: I am.

MR. KRIEGER: As long as there's no objection then there's no question as Mr. Reis said it facetiously tearing down the building or doing anything else. What I am getting at is the Zoning Board of Appeals has no jurisdiction unless there's something to appeal, there's nothing, no objection has been raised here, the building inspector hasn't made any ruling or decision to appeal.

MR. BABCOCK: Yeah, in the code there is a section that says that I can ask for an interpretation for the exact location of a zoning line and that's what I'm basically doing tonight.

MR. KRIEGER: Then there's if you're talking about raising with respect to the zoning now.

MR. BABCOCK: See the line is farther down.

MR. KANE: That's the school.

MR. BABCOCK: That's really it's hard to see on these maps but on the printed map its clear this line needs to move, this line is down here, Mike, see on this map this line is here, the line needs to be here, that's where it's supposed to be, these are residential houses, it's not supposed to be up here, it's supposed to be here, which will fix this whole thing and this corner is the problem with the hotel.

MR. BONURA: That's where we found it.

MR. KANE: That we can take care of.

MR. BABCOCK: And this line needs to go all through here, makes everything at Pier 9 legal and makes this legal.

MR. KANE: What then we need something in writing from the building inspector for Pier 9 to make an interpretation about that property line?

MR. BABCOCK: That's what I did on my denial, that's what it is.

MR. KRIEGER: As long as there's a denial, yes.

MR. KANE: Then we can handle them both.

MR. BABCOCK: Section 300-84(a)(2), do you want to see that code, Andy?

MR. KRIEGER: Yes.

MR. KANE: So on the public you're going to have to do two interpretations, one for each property, okay?

MR. MC DONALD: We're going to be moving this back.

MR. KANE: Our interpretation is that number one, on this property since the most of the, 3/4 of the property is in an NC zone that he can build the whole property as NC and the second portion would be that we also find that the zoning line should return to the former state and that's where the building department and the, you know, the Town will consider that as the zoning line, then we would have to just do the zoning line for Pier 9 going up here that we find it back to the old boundaries. Legally we're dealing with two

different properties so we have to do each property.

MR. BABCOCK: I can make another referral.

MR. KANE: Okay, so it has its own separate paperwork. So that way we can handle both and we'll set you up.

MR. BONURA: We can't find anything where that line right now should be back here.

MR. KANE: Looks like they took the school zone thing and kind of imposed it over here, okay, we can fix both of those up, that's not a problem.

MR. BABCOCK: Mr. Chairman, in August of '93 when they made the 200 foot rule, this property and the line where it is now is 202 feet so it's exactly where.

MR. BONURA: They went all the way, this is 202 feet from 9W.

MR. BABCOCK: If you look at the zoning map along 9W it's exactly 200 feet back.

MR. KANE: What year?

MR. BABCOCK: August of 1993. Mr. Chairman, one more thing just for clarification, just so that if it ever becomes a measurement, the measurement where the line is supposed to be and where we're asking you to make the interpretation that it is is 395 feet back from 9W.

MR. KANE: All the way across about the properties.

MR. BABCOCK: Well, no, it's on an angle but this is at the one side and it's at the intersection of the Pier 9 lot and the lot where the hotel wants to be built, this way it's clear.

MR. KANE: May I have a motion?

MR. MC DONALD: I make a motion that we set Mr. Bonura up for a public hearing for two interpretations, one of which has the hotel property has two versions.

MR. KANE: So you're going to, you can simply set it up for an interpretation of both properties.

MR. MC DONALD: So moved.

MS. GANN: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

DAVID_GARCIA_(05-51) _____

MR. KANE: Request for 8 ft. rear yard setback for proposed 8' x 12' shed and for proposed shed to project closer to the road than the house on a corner lot at 2 Harth Drive.

Mr. David Garcia appeared before the board for this proposal.

MR. KANE: Tell us what you want to.

MR. GARCIA: I want to put a 12 x 10 shed up on my property but according to the Town, I have two front yards cause it's a corner lot and the constraints I have with the shed that I have a brook running through the back of the property so it gives me a little bit of a problem where exactly to put the shed.

MR. KANE: So you would have water problems if you put the shed in the back?

MR. GARCIA: Right, I'm sort of limited to where I can put it.

MR. KANE: Will you be cutting down any trees or substantial vegetation in the building of the shed or replacement of the shed?

MR. GARCIA: No.

MR. KANE: And we're moving the shed, you're looking to move the shed because you'll create a water hazard if we put it in the back?

MR. GARCIA: I'm not moving the shed, I'm constructing the shed.

MR. KANE: Replace the shed because if you placed it in the back, you would have a water hazard because of the

creek.

MR. GARCIA: Right.

MR. KANE: Any easements where you propose to put the shed?

MR. GARCIA: Not that I know of.

MR. KANE: Is the shed similar in size and nature to other sheds in the neighborhood?

MR. GARCIA: Yes, it is.

MR. KANE: You had stated that.

MR. KRIEGER: Not that I know, you have to understand at the public hearing when you're asked that question the answer has to be yes or no.

MR. GARCIA: The easement that I know of is by the road which is off that part.

MR. KRIEGER: Find out so when you're at the public hearing to answer the question.

MR. KANE: That's why we have the prelim, you need to have correct answers.

MR. GARCIA: Sure.

MR. KANE: Also you had stated it's a 10 x 12 shed, is it 8 x 10 or 10 x 12?

MR. GARCIA: It's 10 x 12, I'm sorry, it's 10 x 8.

MR. KANE: Or 8 x 12 original numbers?

MR. GARCIA: I'm sorry, it's been a while since I wrote the paperwork.

MR. KANE: 8 x 12 is in the paperwork.

MR. GARCIA: 8 x 12.

MR. MC DONALD: In the pictures I'm looking at there's a shed, whose is that?

MR. GARCIA: That's my neighbor's.

MR. KANE: With the shed being in the front yard is it going to impede the view of any traffic going passed your house?

MR. GARCIA: No.

MR. KANE: When you come for the preliminary meeting can you bring me one picture showing the street in front of your house?

MR. GARCIA: Where the shed will be placed, sure.

MR. KANE: From the street if you would, thank you. Any other questions?

MR. MC DONALD: What side of the creek are you going to be on looking at this, this is the bridge on Willow Lane and your house is here?

MR. GARCIA: Right.

MR. MC DONALD: Going to be on this side?

MR. GARCIA: Shed will be here.

MR. MC DONALD: Okay.

MS. GANN: Accept a motion?

MR. KANE: Yes.

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MS. GANN: I will offer a motion that we set up David Garcia for a public hearing for eight foot rear yard setback for proposed 8 x 12 shed proposed shed to project closer to the road than the house on a corner lot at 2 Harth Drive.

MR. MC DONALD: Second it.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

JOHN_MOWBRAY_(05-52) _____

MR. KANE: Request for 24 ft. side yard setback for existing deck at 318 Beattie Road. Tell us what you want to do. Your name please?

MS. LORRAINE: Debbie Lorraine, she actually signed an affidavit for me to come in.

MS. GALLAGHER: This is the sister, they have a proxy.

MR. KANE: Will you be here for the public hearing?

MS. LORRAINE: No, they'll be here.

MR. KANE: Okay, for an existing deck, do you know did they cut out any trees or remove substantial vegetation in the building of the deck?

MS. LORRAINE: No.

MR. KANE: Create any water hazards or runoffs with the building of the deck?

MS. LORRAINE: No.

MR. KANE: Any complaints formally or informally about the deck?

MS. LORRAINE: No.

MR. KANE: Is the deck similar in size and nature to other decks that are in your neighborhood?

MS. LORRAINE: Yes.

MR. KRIEGER: How long has it been existing?

MS. LORRAINE: I'd say at least 15 years.

MR. KANE: You understand in a public hearing if everything is approved you still have to meet the requirements?

MS. LORRAINE: They're in the process of that right now.

MR. REIS: Any complaints about the deck?

MR. KANE: I already asked that. Any further questions?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion we set up John Mowbray for request for 20 foot side yard setback for existing deck at 318 Beattie Road for a public hearing.

MR. MC DONALD: Second it.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

PATRIOT_PLAZA_ASSOCIATES_LLC_(05-53)

MR. KANE: Request for 12 ft. maximum building height for proposed cupola on commercial retail center at 337 Union Avenue.

Mr. Thomas Perna appeared before the board for this proposal.

MR. PERNA: My name is Thomas Perna of Patriot Plaza Associates. I'm the builder/developer of the shopping center on the corner of Union Avenue and 32. We're building the building, the building is basically roofed out, the roof is done and it came to our attention to measure the building, we find out the height of the building is 36 feet high. Your code is 35. Our plan calls for a cupola on the top of the building so we're asking for a variance of some 12 feet which will include the cupola.

MR. KANE: So we need a foot for the building approximately?

MR. PERNA: And the reason we're asking for cupola is because it matches.

MR. KANE: Actually matches the school.

MR. PERNA: And again it would match the buildings.

MR. REIS: The cupola will not be impacting the sight of the townhomes to the rear?

MR. PERNA: No, actually, we have spoken to the homeowners who are living there and in fact it cuts off their view of 32, they look over the top.

MR. KRIEGER: Don't cut off their view of the river, just of 32.

MR. PERNA: Cuts off the sight of the traffic.

MS. GANN: Is there a use for that or just for--

MR. PERNA: Just for ornamental.

MR. KANE: Anybody have any other questions? I think it's a good point, I think it will look good.

MS. GANN: Accept a motion?

MR. KANE: Yes, I will.

MS. GANN: I'd like to offer a motion that we set up Patriot Plaza Associates for a public hearing for request for 12 foot maximum building height for the proposed cupola on commercial retail center at 337 Union Avenue.

MR. MC DONALD: Second it.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

QUICK_CHEK_FOOD_STORES_(05-54)

MR. KANE: Request for interpretation of code Section 300-26(A) relative to 1000 ft. spacing between gasoline facilities/stations. As per bulk tables this application is for convenience store with gasoline sales, freestanding sign, request for 27.9 square foot for sign, wall sign, request for 45 square foot for wall sign all at corner of Route 32 and Union Avenue.

MR. GENESLAW: I'm Howard D. Geneslaw from the firm of Gibbons, Del Deo, Dolan, Griffinger & Vecchione, we're representing Quick Chek Food Stores.

MR. KRIEGER: Just so the board is aware, Mr. Geneslaw and I have been in contact previous, have discussed certain aspects of this application. I'm sorry, go ahead.

MR. GENESLAW: Thank you. Just by way of a quick summary, the proposal here is for a convenient food store which also sells gas and has an associated car wash and we're here for two purposes really. The first has to do with an interpretation of Section 300-26(A) of the code which talks about there being a prohibition against facilities that sell gasoline within 1,000 feet of other gasoline facilities. Now, the way the definitions of the code read we believe that in fact this does not apply because of the way gasoline stations are defined, it talks about gasoline stations and repair garages. We clearly don't perform repairs. And if you look at the definition of gasoline station in the code, it also contemplates a facility that performs repairs. So we're seeking an interpretation that that section does not apply and in the event the board determines otherwise, then we're seeking a variance from the thousand foot restriction and separately we're also seeking two sign variances, one for freestanding sign which will be located on Route 32 and the other for a wall mounted sign located on the

front of the building. Procedurally we're also looking for a 239 referral to the county being we're on a state highway as well as a county road and as I discussed with Mr. Krieger, the planning board has for SEQRA purposes circulated a lead agency letter to all involved agencies, other than the ZBA, with the expectation that the ZBA would perform its own uncoordinated review so we will be looking for a negative declaration. I have with me representative from Quick Chek as well as the site engineer and our traffic engineer if there should be any questions. And I certainly will be glad to give you anymore information that I can provide.

MR. MC DONALD: I like the sign with \$1.29 gas.

MR. GENESLAW: I guess those exhibits were probably prepared a year or two ago when gas was slightly more affordable.

MR. KANE: Let's jump right over to the signs, freestanding sign request for 27.9 square feet, how big is the sign going to be, do you have any examples of the sign?

MR. GENESLAW: The sign is a total of 91.9 square feet and looking at the materials that we submitted there are actually two photographic depictions of what it would look like, the forward back of your materials there's a schematic and this shows the sign without the car wash panel at the bottom, what's shown here is 80 square feet. What we're proposing would have the car wash panel down at the bottom which brings us to 91.9 and there's separately in your materials a photograph of another store, this is an existing Quick Chek which is located in Hazlet, New Jersey and this is the actual sign except instead of having a panel for a bank at the bottom, the panel here would be for a car wash. Other than that though it's essentially the same sign. So you can see a picture of one in real life and also the

schematic drawing of what it would look like.

MR. KANE: I was going to say on the freestanding sign we're just going for square feet, there's not going to be any questions about height?

MR. MARTELL: No, the maximum height would be 15 feet per code, that's what's being proposed.

MS. GANN: What's the location of the sign, it will be on Union?

MR. MARTELL: Quick introduction, Jeff Martell from Bohler Engineering, design engineer, it's actually the sign in question is actually located at the entrance of state highway Route 32, it will be on the southern side, it's kind of difficult to see but where this dark tree is right in here there's a small planting bed around the sign, it will be located right in the middle of that.

MR. KANE: Are you going to have both entrance and exit from all of the entrances to the property all three?

MR. MARTELL: The driveway previously described on Route 32 would be a full movement driveway, the western most driveway on county Route 69 Union Avenue would be full movements, the eastern most driveway would not be permitted to make a left exit out of the site so it, so you would be allowed to make a left in as well as a right in and right out, there'd be, you'd be restricted from making the left movement, that's signed as well as where a mountable curb cut island there to restrict.

MR. REIS: Have these ingress egress, has that been approved by the planning board?

MR. GENESLAW: We went to the planning board for the initial appearance, they referred us here for the variances. Once we're assuming the variances are

approved we'll then go back to the planning board to continue a site plan review, so they have looked at the plan, they haven't actually approved the plan at this point.

MR. MARTELL: In addition to that, the county has reviewed the movements on their road, actually issued a review letter that I believe would have been sent to the Town, they did not have any comments in regards to the access. They did of course mention the 1,000 foot radius but they didn't mention anything as far as the access and the driveway on Route 32 will also be reviewed by the state DOT but we have not received comment based on that.

MR. KANE: Now the wall sign, cover that next please.

MR. GENESLAW: Sure, the wall sign is also shown in a schematic drawing which is the materials that were submitted, this indicates the wall sign that's being proposed which would be located in the front of the building is proposed at 70 square feet. Whereas 25 is permitted so the variance that we're looking for would be for the difference or 45 square feet.

MR. KANE: Is that building facing towards Route 32?

MR. MARTELL: Correct.

MR. KANE: How many feet off the road is the building?

MR. MARTELL: The building is off the front yard, it's 73 feet would be to the canopy actually probably be an additional 60 feet plus or minus, so Route 32 is plus or minus 130 feet from county Route 69, it's plus or minus 100 feet.

MR. KANE: Is the sign going to be illuminated?

MR. MARTELL: Yes, it will be illuminated.

MR. KANE: Interior, non-flashing?

MR. MARTELL: Correct.

MR. MARTELL: Just to point out ideas that Quick Chek of course reviewed was the possibility of putting an additional sign on the side of the building which they are accustomed to doing which would be a side of course facing county Route 69, they have elected not to do so in this case, just strictly went with the primary tower in the front that has the signage, big green area which of course that area is associated with the bump out you'll see in the building, this small little rectangular bump out, that's the green tower that I described the sign would be set up on that.

MR. REIS: Quick Chek hold title to this property at this time?

MR. GENESLAW: No, they are the contract purchaser of the property.

MR. KANE: Okay, that leaves the interpretation, okay, so explain to me why you feel that you don't fit into their definition of gas facilities.

MR. GENESLAW: Sure, if you look at Section 26 (A) of the zoning code, it says that no gasoline station shall be permitted within 1,000 feet of any other gasoline facility fronting on the same street. There's a facility across the street which is formally I believe a Sunoco and is currently seeking approvals to develop a Hess gas station with associated convenient store. So if you then look at the definitions keeping in mind that 26 (A) applies only to gasoline stations and repair garages, you'll see that the term repair garage is not defined in the codes, pretty obviously contemplates the repair of vehicles, being that this is a convenience food store that sells fuel and is a car

wash, does not engage in repair of vehicles, so clearly would not be a repair garage. And then if you look at the definition of gasoline station that term is defined as building or other structure or a tract of land used or heretofore used primarily for the servicing of motor vehicles and again servicing of motor vehicles is not something that's being proposed here.

MR. KRIEGER: Is that definition of gasoline station or is it the definition of another term?

MR. GENESLAW: That's the definition of gasoline service station, the term gasoline station does not actually appear in your code, the closest term that appears and is defined is the word gasoline service station.

MR. KRIEGER: Close but it's not the same.

MR. GENESLAW: In 26 (A) it uses the term gasoline station and gasoline facility also not defined and it seemed to us looking at the code as though it was probably intended to deal with your older facilities that were engaged in repairs and not the kind of modern mixed use facility that is really more of a retail type of facility.

MR. KRIEGER: Doesn't the code also provide and I quote exactly a gasoline station may include a convenient store which customarily sells retail products and food including deli, bakery, franchise fast food as an ancillary use, is that in the code as well?

MS. GENESLAW: The code does permit special, permit convenient stores that also sell gas, that's true, but in Section 26 (A) it doesn't mention convenient stores that sell gas, just mentions gasoline.

MR. KRIEGER: The language I quoted is from 26 (A) is it not the last sentence gasoline station may include,

it's in 26 that says it can include a convenient store, so why is this gasoline station and convenient store different than the gasoline station and convenient store that's contemplated in 26 (A) and it says so that it includes a convenient store, why is this different?

MR. GENESLAW: Well, if you look in the special permit table it talks about convenient stores being a special permit use and it talks about them also being permitted to sell gas, that special permit use is not referenced in 26 (A) and so it seems to us and to the planning board that at least there was enough of an ambiguity in the code that the Zoning Board of Appeals should make an interpretation and in the event that the board of appeals doesn't agree with our position and in fact determines that it does apply we seek an area variance from that requirement.

MR. KRIEGER: The application there should reflect the fact that they're applying for both an interpretation and area variance in the alternative just in case they fail on the interpretation so they don't have to come back again.

MR. KANE: Okay, Mike, can we get that added in?

MR. BABCOCK: Absolutely should be there, Mr. Chairman, I don't have that file but if it's not there we'll correct that tomorrow.

MR. GENESLAW: It was noted in the referral from the planning board so just can be taken from there.

MR. KRIEGER: I just wanted to make sure all the paperwork is consistent, I just want to--

MR. GENESLAW: I appreciate that, thank you.

MR. KANE: No sense getting into that debate now because that's what it comes down to the

interpretation. Any other questions from the board at this point?

MS. GANN: No questions.

MR. KANE: I'll accept a motion to set up for a public hearing.

MR. REIS: Excuse me, Mr. Chairman, we're going to set them up for a public hearing for an interpretation.

MR. KANE: And/or a variance for the thousand foot rule and they're still coming in for a variance on the two signs so they're asking for an interpretation on the thousand foot rule, if the interpretation is declined then they'd like a variance of that thousand foot to put the gas station in.

MR. REIS: Okay, would it make sense, I don't know if there's a, to vote on the interpretation now?

MR. KANE: Can't, has to be done at a public hearing.

MR. KRIEGER: Everything has to be done at a public hearing.

MR. KANE: That's why we do the prelim so that everybody has a chance to get enough information instead of coming in cold, not so much the businesses but the homeowners come in without the right stuff, they can't come back for six months if they're turned down, it makes sense to have the prelim so everything has to be done in a public.

MR. REIS: Very good, all right, accept a motion?

MR. KANE: Yes.

MR. REIS: I will make a motion that we set up Quick Chek Food Stores for a public hearing for

interpretation and/or an area variance of their 1,000 foot space in between gasoline facilities, stations, also for freestanding sign request for 27.9 square foot and wall sign request for 45 square foot for wall sign.

MR. MC DONALD: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

MR. GENESLAW: What's the timing procedure for the 239 referral, will that be going out now so comments might be back in time for the hearing?

MR. KRIEGER: Yes, should go out, we haven't done it with the zoning board, done it with the planning board, yes, but they should advise by letter.

MR. KANE: Handle it all at the public, it will be done at the public.

MR. KRIEGER: In the event that the public hearing occurs before the expiration of the 30 day time period 239 then any decision that the Zoning Board of Appeals makes that night will be stayed until the expiration of the 30 days. And in the event that the county came back and said we want to, we have something to say in the unlikely event that they came back and said that then the Zoning Board of Appeals would have to reopen the hearing for that purpose if they come back and in accordance with their usual practice there'd be nothing to reopen.

MR. GENESLAW: Do you need any additional copies of the application materials for purposes of referring to the county?

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MR. KANE: I would like one.

MR. GENESLAW: Okay, I'll send it in to Myra. Thank you.

PUBLIC HEARINGS: _____

M & Y BUILDERS (05-37) _____

MR. KANE: Request for 21,847 square foot minimum lot area for proposed single family home at 8 Schwartz Lane.

MR. OLLIE: My name is Thomas Ollie, I'm an engineer located in Walden, New York, we represent M & Y Builders in this application. M & Y purchased the subject piece of property back in late 2002, early 2003 and at the time the area requirement for the construction of a residence in the R-1 zone was I believe 40,000 square feet. In the interim, between then and now, the zoning requirements was increased to 80,000 square feet. M & Y's lot consists of approximately 58,153 feet so there's a deficit of 21,847 square feet in order to meet the minimum lot size for the property. M & Y are builders, they intend to build a 4 bedroom approximately 3,000 square feet house that will meet all of the zoning requirements except for the lot area as I have described it. The property has been cleared and vegetation has re-established itself, but it's all weeds at this point. At the last time that we were before the board, the board asked us to take some photographs of the site and we have done that. This photograph is looking at the site and up to the west on Route 207, this photograph is looking down Schwartz Lane and the property is on the left-hand side and this photograph is looking from Schwartz Lane out to 207 with the property also on the left-hand side of the picture. Schwartz Lane is a private road, when M & Y began the process of preparing the lot for construction, they spoke with the highway superintendent and the highway superintendent made a request that a collapsing culvert be replaced just to the south of the property on Schwartz Lane. Mr. Grossman, who is the principal of M & Y complied with that replacing the rusted rotted

corrugated metal pipe with a new plastic pipe and also resurfaced Schwartz Lane with fresh Item 4 and also widened the portion of Schwartz Lane in front of the property as suggested by the highway superintendent in order to accommodate the driveway for this property and to better accommodate two way traffic on that portion of Schwartz Lane. There was the concern raised by several neighbors about drainage on the property and Mr. Grossman retained our office to do an evaluation of that and after gathering together some historic mapping of that area we were able to determine that for the most part storm water did travel from a north to south direction across the property. But while Mr. Grossman had the equipment there, he could construct some swales, some berms to prevent water from running across the intersection of Schwartz Lane at 207 and also to grade the front of his property, create a low point which would serve to provide some detention of the storm water runoff thereby alleviating some of the runoff problems that were raised by some of the nearby residents. At this point, I'd be happy to answer any questions that the board has and obviously when you open it up to public comment as well.

MR. REIS: Mr. Chairman, if I may interrupt, our company was involved with the sale of this property to Mr. Grossman, the sale has taken place a long time ago, I think I will be able to comment and vote if that's okay with you.

MR. KRIEGER: So you don't stand to either profit or hurt by any determination that this board would make?

MR. REIS: No, correct.

MR. KRIEGER: Okay.

MR. KANE: Not a problem.

MR. OLLIE: For the record, the applicant recognizes

that Mr. Reis has involvement in the project at this time or in the future as a result of any decision that would be made here.

MR. KANE: Okay, at this point what I am going to do is open it up to the public and hear what they have to say and speak. Anybody have anything to say about this application? Please state your name and your address.

MR. JONES: My name is Nicholas Jones, I have adjoining property and the farm below it, lot of things are neglected here in the pictures and stuff that should be said, originally the lot had a stone wall on it, trees along it, stone wall was buried, pine tree fell over, took out power lines, 40 foot power lines, it's been an ongoing I guess we'd say joke on Schwartz Lane, very inconsiderate to the neighbors on the lane. When I went there, the man operating the backhoe, the tree was down, was burying the pipe, I said, you know, those wires are live, oh, no they're dead, they snapped off. I said you better call somebody, I don't have any power, so he pulls out the phone, calls 9-1-1, gets Central Hudson, cleared the tree, I believe they were given a summons by DEC for totally stripping the land without a permit. I have videos that will show water flow that's happened with this property, the property's had, it's been ditched with subsurface drainage to try to pick up this drainage, this excessive amount of drainage that it receives from the roadway, the six inch pipe was changed to a 15 inch pipe, not on M & Y's property, actually according to my deed I own halfway across there so the pipe is now in my, in the lot that I have, and all the water's been diverted from the front where it was flooded, the State Department would not give them permission to put in a pipe so they decided to divert it all down the other way and put into a 15 inch pipe that's improperly installed, it's not dug in, not put down, no footing, it's almost up to the surface of the ground. Everything on this site when questioning the Town people come out, well, it's

not a legal road so, you know, it becomes a legal matter for you, so what we have put up I can show you here on video flooding my front field, now flooding my back fields was all this was diverted to the increased pipe that was put in with never asking permission to me being that it adjoins my property and according to my deed I own halfway to the center of the road. Should have never been sold as building lot to begin with, it's been a detention pond for 50 years, that's what the property has been. So by stripping the stone walls, pushing the limits on the boundaries, by widening the road and I really challenge that question that the superintendent told him to go down and remove that pipe because if you ask you, get the superintendent, I called him on the phone, he said he never made any such statement. So there's a big question there, I think that the highway superintendent should get called into it and asked about it. You want to view the video, I have it here of the flood zone that's been created, I've got to get my wife to operate the video.

MR. KANE: Not a problem.

MRS. JONES: This has been going on since 2003.

MR. JONES: We had a quick snow and a quick warm up melted right off.

MR. KANE: Is this off Schwartz Lane?

MRS. JONES: This is the lot that you're looking at.

MR. JONES: That's their lot, the pipe I'm not sure yet but the pipe shows water is actually uphill on 207.

MRS. JONES: And when it rains now the pipe that's going onto our property the 15 inch pipe it's going like a fire hose.

MR. JONES: Like a hydrant.

MRS. JONES: You can see at end of the lane where the brown water was running into our field 15 feet wide, eight inches deep.

MR. KANE: A lot of water.

MRS. JONES: And if you're building for this many years and you know when it rains you're going to have this problem why wasn't stuff put there from keeping everything from going into our fields and our pipes.

MR. JONES: Whenever we ask the Town can they put fill, they can do whatever they want, it's their lot so they lay subsurface drains.

MRS. JONES: They put I don't know how much fill they brought in.

MR. JONES: It's never going to perc, it's gray muck.

MR. KANE: Again, it's their property so they have a right to do that.

MR. JONES: But they don't have a right to send the water.

MRS. JONES: We have lived there for over 20 years, it was never this situation before at all, this was created.

MR. KANE: Okay, thank you.

MR. JONES: And the other thing well again like I say the superintendent when I questioned him I had referred him to change the pipe which is not on his property, his deed does show that he owns across the road but he has egress to people living on the lane, I mean, the State Highway Department saw the property that's the

problem.

MR. KANE: Is that all, sir?

MR. JONES: I guess so cause I have been also we did obtain a lawyer and M & Y did not show up at the hearing so I think the court has granted us whatever it is obtainable right or something for that hearing.

MR. KANE: Thank you. So I'm not being facetious or anything but I have to ask the question so you're against this motion?

MR. JONES: To, yeah, to put a house in there, it's only going to increase the water flow if you put a house, put pavement, put a driveway, how can you put a house in a lot that you saw that water coming out of the pipe, how can you put a house there, it's not going to, how is it going to perc, they're not going to be able to put a septic system.

MR. KANE: Would you like to address the water issue?

MR. OLLIE: Yes, first of all, I just if I might ask Mr. Jones I saw the date on that was December, 2003 is that when that was recorded?

MRS. JONES: Yes.

MR. OLLIE: Since that time, I just want to get the dates correct since is that time we had been retained and I think part of that was in response to the notice that the Jones had filed against M & Y and I personally met with their attorney, the Jones' attorney out in the field to discuss these drainage issues and what was asked of us and what we prepared was a drainage study to evaluate what the conditions were beforehand and then to try to mitigate it in some fashion and first of all I don't know what the exact size of that culvert was beforehand, and I was retained after the culvert

was replaced so I can't testify to that. However, what I can testify to is my knowledge of storm water runoff and drainage as a professional engineer and irregardless of that pipe size the water did flow historically across M & Y's property to that area around the culvert whether it flowed over the top of the road over through the culvert or combination of both there's strong evidence based on the topographic mapping the USGS mapping and even some of the some limited access we had available to the DOT topographic mapping from Stewart Airport that actually overlays that area, it's quite evident that the water traveled from as you're standing on Schwartz Lane with 207 on your right from the upper right-hand corner of the property to the lower left-hand corner. The property is wet, or is subject to seasonal flooding, especially down in that area we performed percolation tests out there, we have determined that a shallow absorption type of sewage disposal system would have to be constructed on that property because as you go down deeper, yes, you do run into heavier clay soils but those are things permissible within the guidelines of the New York State Department of Health for the design of a septic system in addition to the, what I described before as our evaluation of that property we did look to see how we can mitigate whatever affects we would have of constructing a home on that property. And one of them would be to regrade the front yard for which we have developed a grading plan that would create another low spot that would help to minimize the rate of runoff coming from the M & Y property in deference to the downstream owners. Historically, water also did flow across Schwartz Lane at or the intersection with 207. In an effort to improve a safety hazard of freezing in that area during the winter time we did berm and redirect some of the water along our property into these low areas that have been excavated and will be further improved at the time of construction when more impervious areas are added so we're trying to be a good neighbor, we did meet with the Jones' lawyer out there

and an engineer that was representing them and we forwarded our plan onto their engineer and as far as I know, he was satisfied with that as a mitigation effort, mitigation measure, the property is in an R-1 district, the change in the lot area it is very similar to every other lot that is along Schwartz Lane and with the mitigation that we're proposing we feel that we're not creating any additional impact on the neighborhood or the community by requesting this variance.

MR. KANE: Okay, thank you. One question before I close the public portion first is there anybody else that wants to speak on this? Mr. Jones, we just had some heavy rains earlier this summer, how did that corner lot off that highway handle it?

MR. JONES: Not well. There's people that live down the lane that have been there, Mary Sanders, she's been there longer than I have, probably twice as long I have, never seen water come across the front of Schwartz Lane.

MR. KANE: Okay, at this point, I'll close the public portion of the meeting and ask how many mailings we had?

MS. GALLAGHER: On the 10th of August, 8 mailings were sent out with no responses.

MR. KANE: Bring it back to the board. Questions?

MR. MC DONALD: The video that we were looking at was that before you did this?

MR. OLLIE: Yes, yes, this work that was described was done early this spring, the video goes back to December of 2003 and admittedly there were problems when they did the work there was by the way Mr. Jones is correct in that the DEC did make a citation but that was dismissed in that M & Y did not violate any of the

requirements of the SPDES so a citation was made but it was after investigation it was found that there was no violation so and since that time, vegetation has re-established itself, which is anyone in our business will tell you that's key to--

MR. JONES: That's purple--

MR. OLLIE: Which is key to minimizing the impacts of that runoff as it will hold the soil.

MR. KANE: But that vegetation won't there be when the home is built.

MR. OLLIE: A certain amount of it will be removed and we'll put in place a storm water management plan, an erosion control plan for that work to prevent runoff of sedimentation onto any of the adjoining properties.

MR. KANE: Okay, any other questions? No further questions? Accept a motion.

MR. REIS: I'll make a motion that we grant M & Y Builders the request for 21,847 square feet minimum lot area for proposed single family home at 8 Schwartz Lane.

MR. MC DONALD: Second it.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	NO

ARCHIBALD_AUSTIN_(05-42)

Mr. Archibald Austin appeared before the board for this proposal.

MR. KANE: Request for 6 ft. fence to project closer to the street than the principal building on a corner lot at 2 Karen Court.

MR. KANE: Evening, sir, come on up, tell us what you want to do.

MR. AUSTIN: My last meeting I was requesting, you requested me to bring additional photos and I did which would show the intersection of Karen Court and Wagner as it relates to the fencing. As you look at the pictures you'll see that brown frame in the rear that's about a hundred plus feet from the corner that's the fence in question.

MR. KANE: Let the record show that I'm in possession of four pictures showing that there's no way that the proposed fence would impede any view of traffic from any vehicles going by the property. Not going to be cutting down any trees, substantial vegetation with the building of the fence?

MR. AUSTIN: No.

MR. KANE: Create any water hazards or runoffs?

MR. AUSTIN: No.

MR. KANE: And the reason you're going for a 6 foot fence is for safety reasons?

MR. AUSTIN: Safety reasons as relates to the pool I would like to install.

MR. KANE: So gives you a little bit of privacy and

safety for the pool?

MR. AUSTIN: That's correct.

MR. KANE: Okay, let me ask if there's anybody in the audience for this particular hearing? Seeing as there's not, we'll close the public portion of the meeting and ask how many mailings we had.

MS. GALLAGHER: On the 10th of August, 22 notices were mailed out, no responses.

MR. KANE: Any board members have any further questions?

MR. MC DONALD: Accept a motion?

MR. KANE: I will.

MR. MC DONALD: Make a motion that we grant the request of Archibald Austin for 6 foot fence to project closer to the street than the principal building on a corner lot.

MS. GANN: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

PUBLIC_HEARING_CONTINUATION_(FROM_JULY_25,_2005)

AMERADA_HESS_CORP_(05-36)

MR. KANE: Request for 7 ft. rear yard setback and 30 square foot variance for facade sign and 4 parking spaces all at corner of Union Avenue & Windsor Highway.

MR. FISHER: Good evening, Mr. Chairman, Chris Fischer with the law firm of Cuddy & Feder on behalf of the application. My partner, Mr. Alexander presented this previously, couldn't be here tonight but I do understand having spoken with him nature of the request for the variances and also your request at the last meeting that we look at in particular the rear yard and the setback. We resubmitted with respect to this application a plan that actually has the building moved and conforming to the setback of 15 feet so we gained and have eliminated the rear yard setback variance altogether as a request on this particular project, if you want to go through the plan you can, gained some space with the reduction in the overall length of the actual spaces to 19 feet, worked on the aisles and picked up that additional rear space.

MR. KANE: So what we have changed from your original application is just the rear setback?

MR. FISHER: So we're down to as a variance request in addition to some of the changes we picked up additional space where we can put another parking space so we're down to 3 instead of 4 on the variance request for parking spaces and signage staying the same, the front facade of the building so we're down to really two requests.

MR. KANE: So 30 square foot sign request is gone?

MR. FISCHER: No, that's still a request.

MR. KANE: Sign request and 3 parking spaces instead of 4 and rear yard setback is gone?

MR. FISCHER: Correct.

MR. KANE: So basically we're just doing the sign and 3 parking spaces.

MR. FISCHER: Yes.

MR. KANE: Good job, thank you. You can proceed.

MR. FISCHER: Obviously, we have to go back to the planning board so there will be some details when we get to the planning board and so let me turn it over to our site engineer, see if there are any changes.

MR. HARPER: Well, I think Chris explained how we got the relief from the rear yard setback, you know, we put the parking back to the required minimum 19 feet, we have reduced this driving aisle here down to 30 feet and we have worked closely with Hess, their site plan people as well on this, we have also like he said because we moved the building and this moved out, we found enough room for another parking space. We have tested this with our templates for truck deliveries as far as gasoline and that works, it's tighter than it was but it works and, you know, I think you already knew we closed one opening here because of the county had requested that and of course in our site plan review with the planning board we will address landscaping, the ordinances for that landscaping.

MR. KANE: We have been basically been through this and we have got the changes that we wanted made so it's, I don't think there's any need to go through all the detail again.

MS. GANN: No.

MR. MC DONALD: No.

MR. REIS: Mr. Chairman, I just want to clarify I was in the audience on the continuation it says request for 7 foot rear yard setback.

MR. KANE: Cross it off, it's not there anymore, it's eliminated. And the 4 parking spaces went down to 3 cause they were with the move they were able to pick up a parking space so basically we're working on a 3 parking space variance and the 30 square foot facade sign they're asking for. That's it. Everybody understand? I'm willing to accept a motion.

MR. BABCOCK: Do you have to reopen it to the public?

MR. KANE: Actually I do not because nothing has really changed, I was going to when I first heard it but since there are no real changes what they have done is eliminate things, there's no real reason to reopen it back to the public.

MR. BABCOCK: Okay.

MS. GANN: Accept a motion?

MR. KANE: Yes.

MS. GANN: I'd like to offer a motion that we grant Amerada Hess Corporation their request for 30 foot square foot variance for the facade sign and for 3 parking spaces at the corner of Union Avenue and Windsor Highway.

MR. MC DONALD: Second it.

ROLL CALL

MS. GANN	AYE
MR. MC DONALD	AYE

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MR. REIS AYE
MR. KANE AYE

MR. KANE: Thank you very much. Motion to close the meeting.

MR. MC DONALD: So moved.

MS. GANN: Second it.

ROLL CALL

MS. GANN AYE
MR. MC DONALD AYE
MR. REIS AYE
MR. KANE AYE

Respectfully Submitted By:

Frances Roth
Stenographer